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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,282	01/14/2005	Andreas Roither	ROITHER-7	1744

20151 7590 01/24/2007
HENRY M FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

EXAMINER

ABRAHAM, TANIA

ART UNIT	PAPER NUMBER
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3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/521,282	ROITHER, ANDREAS	
	Examiner	Art Unit	
	Tania Abraham	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-19, 21, 24-26, 28 and 29 is/are rejected.
- 7) ☒ Claim(s) 20, 22, 23 and 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Information Disclosure Statement

1. The information disclosure statement filed 03/07/2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

2. The disclosure is objected to because of the following informalities: on page 4 of the Specification Amendments filed 1/14/05, reference characters "23" and "24" have both been used to designate "pivot axis" – see lines 1 and 16; reference characters "23" and "22" have both been used to designate "guide pin" – see page 4, line 2 of the Specification Amendments filed 1/14/05 and page 7-[0016], line 5 of the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 recites the limitation "concentric

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superimposed relationship” in line 2 to describe the structural relationship of the guide pin 23 and joint 21. Figures 1-4 do not show the guide pin and joint in a superimposed relationship. Claim 25 recites “and another end” in line 4. The recitation is an incomplete description of the connections between the crank and other elements of the invention. Claim 26 recites “a crossbar-distal end of the connecting rod” in line 3. This recitation is unclear, as it seems to claim a direct connection between the crossbar and the connecting rod, while the preceding claims define the connection to be indirect – via the crank.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 13-19, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Godette. Godette discloses structure as claimed including an adjustable backrest 48, a headrest 50 pivotally connected to the backrest, an adjustment device with an articulated lever. The adjustment device also includes a motor 100, a spindle 124, and adjusting elements – drive nut 122, mounting arm 120, torque arm 130 – for adjusting the back and headrest. The articulated lever toggles between the reclining positions shown in figures 8 and 11, and is connected to the adjusting elements at one end and the backrest at a second end. A footrest 42 is pivotally connected to the backrest via sections 44 and 46. The adjustment device also includes a motor 62 and

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footrest adjusting elements that are pivotally connected to the footrest 42 (figure 3).

The articulated lever is comprised of a plate 136 jointed to a link 140, where the plate is connected to the adjusting elements and the link 140 is connected to the backrest 48.

When the adjusting elements move from one position the articulated lever 136/140 moves linearly and rotationally to a point where it is blocked (figures 8 and 10). A fixed guide pin 154 in the area of the lever's 136/140 joint is supported in a stationary slideway 152 to facilitate the raising of the backrest. When the adjusting elements are in the position shown in figure 11, the guide pin 154 is generally closer to the backrest 48 than the lever's joint. The adjustment device has two spindles 66, 124, where the drive gear 60 and motor 62 is constructed to operate one of the spindles.

7. Claims 13 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Godette. Godette discloses structure as claimed including an adjustable backrest 48, a headrest 50 pivotally connected to the backrest, an adjustment device with an articulated lever - mounting arm 120 and torque arm 130. The adjustment device also includes a motor 100, a spindle 124, and adjusting element 122. The articulating lever toggles between the reclining positions shown in figures 8 and 11, and is connected to the adjusting element 122 at one end and the backrest at a second end. The torque arm 130 is a crossbar, connecting opposite sides of the backrest 48 (fig. 2), that is connected to the crank 136, which in turn is connected to the connecting rod 142. A bracket 150 is fixed to the headrest 50 and is in sliding engagement with connecting rod 142.

Allowable Subject Matter

8. Claims 20, 22, 23 and 27 are objected to as being dependent upon a rejected base claim, but would be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record did not show or suggest, either singly or combined, a fixed stop provided on and engaged by an articulated lever.

10. Claim 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TA



DAVID R. DUNN
PRIMARY EXAMINER